

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

**ERSKIN RIVERS,  
TDCJ No. 01369061,**

**Plaintiff,**

**v.**

**KEVIN SCHIWART,**

**Defendant.**

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**Civil Action No. 7:18-cv-00120-M-BP**

**AMENDED ORDER ACCEPTING FINDINGS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case. Defendant filed objections on March 28, 2019. The District Court reviewed the proposed Findings, Conclusions, and Recommendation *de novo*. Finding no error, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

The Court therefore **DISMISSES** without prejudice Plaintiff's claims asserted against Defendant in his official capacity for lack of subject matter jurisdiction; **DENIES** Defendant's Motion to Dismiss (ECF No. 10) for failure to state a claim as asserted against Defendant in his individual capacity; and otherwise **DENIES** without prejudice Defendant's Motion to Dismiss (ECF No. 10).

**SO ORDERED** this 24th day of April, 2019.

  
**BARBARA M. G. LYNN**  
**CHIEF JUDGE**